

# ORDER OF PROTECTION INSTRUCTIONS

THE ORDER OF PROTECTION FORM MUST BE EXAMINED AND ATTESTED TO  
BY A JUDGE FOR THE ORDER TO BE VALID.

**\*\* Please Note:** all instructions in *red italics* are mandatory reporting fields.

1. **Temporary Order** – Check this box if the order is temporary. “Temporary Order” generally refers to an order issued by the judge without prior notice to the respondent. A temporary order is effective until the 20-day hearing.
2. **Permanent Order** – Check this box if the respondent received notice and an opportunity to participate. Permanent orders are issued after the 20-day hearing. Permanent orders may have an ending date or be effective indefinitely.
3. ***Order Effective Until – Indicate date the order will expire. Temporary orders may use the 20-day hearing date as the expiration date.***
4. **Amended Order** – If this order of protection is changed or modified by the court in any way, a new face sheet must be prepared and attached, and the “Amended Order” box must be checked.
5. **Dissolved** – If the order of protection is dissolved by the court, a new face sheet should be prepared and attached, indicating the date the order was dissolved.
6. **Case No.** – Enter a case or docket number.
7. **Court** – List the name of the court issuing the order (e.g. Lewis & Clark County Justice Court; Fort Belknap Tribal Court).
8. **State** – Enter the name of the issuing state (Montana).
9. **Tribal** – If the order of protection is being issued by a Montana Tribal Court, the Tribal Court should indicate its jurisdiction. If not a Tribal Court, leave blank.
10. **Blank space left for official Court Seal, if applicable.**
11. **Petitioner Name** – Indicate the first, middle and last name of the person requesting the order of protection.
12. **Minor Family Member(s)** – For each minor family member, indicate:
  - a. first and last name
  - b. birth date (mm/dd/yyyy)
  - c. sex (F/M)
  - d. race (Caucasian, Native American, Black, Hispanic)

13. **Petitioner Identifiers** – Indicate:
- petitioner’s date of birth (mm/dd/yyyy)
  - petitioner’s race (Caucasian, Native American, Black, Hispanic) and sex (F/M)
14. **Other Protected Person(s)** (i.e. other family members or witnesses) – Indicate the protected person’s:
- first, middle and last name
  - date of birth (mm/dd/yyyy)
  - race (Caucasian, Native American, Black, Hispanic)
  - sex (F/M)
15. **Respondent’s Name** – *Indicate the first, middle and last name of the person who will be served with this order of protection.*
16. **Respondent’s Address** – Indicate the respondent’s address including apartment/unit numbers. **Do not** use a post office box address. Use the address of the actual location where the respondent lives.
17. **Federal Firearm Disqualification Criteria** – *If any one element describing each section (indicated by ☐) applies, then the section (indicated by ☐) must be checked.*

**The Brady disqualification will attach ONLY on permanent orders of protection and only if all four criteria (Hearing, Child/Intimate Partner, Order restrains, Order finds a credible threat) are met and checked.**

**The Brady disqualifier will never attach on a temporary order of protection because the temporary order hearing is ex parte (only the petitioner is heard) and the respondent has not received notice nor had the opportunity to participate in a hearing. Since a maximum of three boxes can be checked, Brady will not attach.**

- Hearing/Actual Notice** – Check this box if the respondent received actual notice and an opportunity to participate.
- Child or Intimate Partner** – Check this box if the petitioner (person requesting the order of protection) is a child, stepchild or intimate partner of the respondent. The petitioner is an intimate partner of the respondent if any of the following apply:
  - a spouse or former spouse of the respondent
  - an individual who is a parent of a child of the respondent; or
  - an individual who cohabits or has cohabited with the respondent.
- Order restrains Respondent** from future conduct – Check this box if this order restrains the respondent from harassing, stalking or threatening the intimate partner, child of the respondent, or child of the respondent’s intimate partner; or the order restrains the respondent from engaging in other conduct that would place the intimate partner in reasonable fear of bodily injury to the partner or child.

- d. **Order finds a credible threat** – Check this box if the order includes a finding that the respondent is a credible threat to the physical safety of the intimate partner or child; or the order, by its terms, explicitly prohibits the use, attempted use, or threatened use of physical force against the intimate partner or child that would reasonably be expected to cause bodily injury.
18. **Caution** – This information is vital for the safety and protection of all parties including law enforcement officers. **The “Caution” indicator is not related to the Brady disqualifier and may be used whether or not the Brady criteria are met.**
- a. **Weapon Involved** – Check this box if a weapon was involved in the act of violence.
- b. **Weapon on Property** – Check this box if the respondent has a weapon on the property, regardless of whether it was used in the act of violence.
19. **Respondent Identifiers** – Please provide as much information as possible.
- a. ***Sex – Indicate (F) for female and (M) for male.***
- b. ***Race – Indicate Caucasian, Native American, Black or Hispanic.***
- c. ***DOB – Indicate date of birth (mm/dd/yyyy).***
- d. **HT** – Indicate approximate height in feet and inches, such as 5’ 10”.
- e. **WT** – Indicate approximate weight in pounds.
- f. **Eyes** – Indicate eye color (brown, blue, hazel).
- g. **Hair** – Indicate hair color (brown, blonde, red, black).
- h. **Social Security #** – Indicate the nine-digit social security number (xxx-xx-xxxx).
- i. **Drivers License #** – Indicate the driver’s license number.
- j. **State** – Indicate the state that issued the driver’s license.
- k. **Exp Date** – Indicate the date the driver’s license will expire (mm/dd/yyyy).
- l. **Vehicle Make/Model** – Indicate the make and model of the respondent’s vehicle (e.g. Ford Explorer).
- m. **Color** – Indicate the color of the vehicle.
- n. **Plate #** – Indicate the state issuing the vehicle license plates and the plate number.
20. **Distinguishing Features** – Describe any scars, tattoos, birthmarks or other identifying features.
21. **The Court Hereby Orders** – Check each box (☐) that applies.
- a. Check this box if the respondent is prohibited from committing acts of abuse or threats of abuse.
- b. Check this box if the respondent is ordered to stay a minimum number of feet away from the petitioner’s person, home, workplace, vehicle, children’s school/daycare or other location. If this box is checked, you must fill in the number of feet and place a check (√) or an (X) before the areas that apply (person, home, workplace, etc.)
- c. **Additional terms of this order are as set forth herein** – Check this box if you have circled any item 1 through 12 on pages 2 and 3 of a standard order of protection form or if the protection order is part of a District Court document.
22. ***Date Issued – Indicate the date the order was issued/amended/dissolved.***
23. **Signature** – The District Judge/Justice of the Peace/Municipal Judge/ City Judge who issued the order should sign.

- 24. The Court Finds** – The court may either fill out the “Findings” on pages 2 and 3 or attach its own court document (e.g. attach the cover sheet to a Dissolution).

If completing pages 2 and 3, circle the appropriate orders numbered 1 through 12.

1. If No. 1 is circled and other people in addition to the petitioner are being protected, the judge must list the names of the people who are to be protected.
  2. If No. 2 is circled, the judge must list the names of the family members.
  - 3a. Circle No. 3a if the petitioner’s location should remain confidential.
  - 3b. If No. 3b is circled, the judge must indicate the petitioner’s address.
  4. If No. 4 four is circled, the judge must note the distance from petitioner the respondent must remain at all times. The judge must also note the specific places in which this condition is in effect, including addresses of schools for minor children.
  5. If No. 5 is circled, the judge must indicate the names of the people with whom the respondent is prohibited from communicating.
  6. If No. 6 is circled, indicate the name of the child or children the respondent is prohibited from taking out of the county.
  7. Circle No. 7 if the respondent used or threatened the petitioner with a firearm or if the respondent is prohibited from owning, possessing and/or purchasing a firearm.
  8. Circle No. 8 if the respondent is prohibited from taking, hiding, selling, damaging or disposing of the petitioner’s property.
  9. If No. 9 is circled, the judge must indicate which items the petitioner will have possession or use of.
  10. Circle No. 10 if the court orders a peace officer to accompany the petitioner or the respondent when picking up property described in No. 9 above.
  11. No. 11 allows the court to order other conditions, not specifically set forth above, as it deems necessary.
  12. As in No. 11 above, No. 12 allows the court to order other conditions not specifically set forth above, as it deems necessary.
- 25. A hearing on Petitioner’s request** – Indicate the date of the hearing (mm/dd/yyyy), the time of the hearing (including a.m. or p.m.) and the address and location of the courtroom.
- 26. *This Order of Protection – Indicate the date the order of protection expires. This date must agree with the date on page 1, No. 3 “Order Effective Until.”***
- 27. The Sheriff is hereby directed to serve** – Indicate the name and address of the law enforcement agencies that will receive a copy of this order of protection together with a copy of the proof of service.
- 28. ISSUED this** – The judge should indicate the day, month, year and hour, including a.m. or p.m., this order was issued. The judge must sign the order of protection.
- 29. Sheriff’s Return** – This is the notice of service. The law enforcement officer delivering a copy of the order of protection to the respondent must complete a return of service. The law enforcement officer should indicate the time of day, including a.m. or p.m., the month, day and year of service and sign the proof of service document.

# Order of Protection

- ☐ Temporary Order
- ☐ Permanent Order
- ☐ Order Effective Until \_\_\_\_\_
- ☐ Amended Order
- ☐ Dissolved \_\_\_\_\_

Case No:

Court: \_\_\_\_\_

State:

Tribal:

## PETITIONER

First Middle Last

And/or on behalf of minor family member(s): (list name, date of birth, sex and race):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## PETITIONER IDENTIFIERS

Date of Birth of Petitioner

Race/Sex

Other Protected Person(s): (list name, date of birth, race and sex):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## RESPONDENT

First Middle Last

Respondent's Address: \_\_\_\_\_

Federal Firearm Disqualification Criteria:

- ☐ Hearing/actual notice with opportunity to participate
- ☐ Child or Intimate Partner (married/divorced/common child/cohabitates or has cohabitated)
- ☐ Order restrains Respondent from harassing, stalking, or threatening, or other conduct that creates reasonable fear of bodily injury to Petitioner(s)
- ☐ Order finds a credible threat or prohibits use, attempted use, or threatened use of physical force

### CAUTION:

☐ Weapon Involved ☐ Weapon on Property

## RESPONDENT IDENTIFIERS

SEX	RACE	DOB	HT	WT
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
EYES	HAIR	SOCIAL SECURITY #		
<input type="text"/>	<input type="text"/>	<input type="text"/>		
DRIVERS LICENSE#		STATE	EXP DATE	
<input type="text"/>		<input type="text"/>	<input type="text"/>	
VEH. MAKE/MODEL		COLOR	PLATE#	
<input type="text"/>		<input type="text"/>	<input type="text"/>	

Distinguishing Features:

\_\_\_\_\_

### THE COURT HEREBY FINDS:

That it has jurisdiction over the parties and subject matter, and that the Petitioner is in danger of immediate harm. The Court acts without notice to the Respondent (temporary order) or Respondent has been provided with reasonable notice and opportunity to be heard (permanent order). Additional findings of this order are set forth herein or attached herein.

### THE COURT HEREBY ORDERS:

- ☐ That the above named Respondent be restrained from committing further acts of abuse or threats of abuse.
- ☐ That the above named Respondent shall stay at least \_\_\_\_\_ feet away from Petitioner's \_\_\_\_\_ person, \_\_\_\_\_ home, \_\_\_\_\_ workplace, \_\_\_\_\_ vehicle, \_\_\_\_\_ children's school/daycare, \_\_\_\_\_ other: \_\_\_\_\_
- ☐ Additional terms of this order are as set forth herein:

Date Issued: \_\_\_\_\_

By: \_\_\_\_\_

Judge/Justice

### WARNINGS TO RESPONDENT:

This order shall be enforced, even without registration, by the courts of any state, the District of Columbia, any U.S. Territory, and may be enforced on Tribal Lands (18 U.S.C. Section 2265). Crossing state, territorial, or tribal boundaries to violate this order may result in federal imprisonment (18 U.S.C. Section 2262).

Federal law provides penalties for possessing, transporting, shipping or receiving any firearm or ammunition (18 U.S.C. Section 922(g)(8)). Only the Court can change this order.

## **FINDINGS**

**THE COURT FINDS** from the Petition that the Petitioner is in danger of harm. This Court acts without notice or upon hearing to the Respondent because harm may result to the Petitioner if the Order of Protection is not issued immediately.

1. Respondent is restrained from assaulting, threatening, abusing, harassing, following, or stalking the Petitioner. Respondent must not harass, annoy, or disturb Petitioner's peace or do any of those things to the following people (may include family members, witnesses to the offense, or other victims of the offense):  
\_\_\_\_\_  
\_\_\_\_\_.

2. Respondent must not threaten to commit or commit acts of violence against Petitioner or against these family members:  
\_\_\_\_\_  
\_\_\_\_\_.

3. The following applies to Petitioner's present residence:

- a. Petitioner's current location is a secret and should remain confidential.

**-OR-**

- b. Respondent must stay away from Petitioner's residence at:  
\_\_\_\_\_  
\_\_\_\_\_.

4. Respondent must stay 1500 feet or other appropriate distance (\_\_\_\_\_ feet) away from Petitioner's \_\_\_\_\_ person, \_\_\_\_\_ home, \_\_\_\_\_ workplace, \_\_\_\_\_ school, \_\_\_\_\_ vehicle, \_\_\_\_\_ children's school/daycare, \_\_\_\_\_ other: \_\_\_\_\_.

5. Respondent must not telephone, email, write, contact, or otherwise communicate, directly or indirectly or through a third party with Petitioner or the following people (may include family members, witnesses to the offense, or other victims of the offense):  
\_\_\_\_\_  
\_\_\_\_\_.

6. Respondent must not take the following child(ren) out of this county:  
\_\_\_\_\_.

7. Respondent used or threatened Petitioner with a firearm. Respondent is prohibited from owning, possessing and/or purchasing a firearm.

8. Respondent must not take, hide, sell, damage or dispose of Petitioner's property.

9. Respondent must give Petitioner possession or use of the following items (items may include the residence, automobile, and other essential personal property regardless of ownership): \_\_\_\_\_  
\_\_\_\_\_.

10. Petitioner needs a peace officer to accompany him/her to pick up the property listed in Number 9, or Respondent must be accompanied by a peace officer when picking up his/her property or to accompany respondent to pick up his/her belongings.
11. The Court orders the following to provide for Petitioner's safety and welfare and Petitioner's family's safety and welfare:  
\_\_\_\_\_  
\_\_\_\_\_.
12. Other relief: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

A hearing on Petitioner's request that this order be made an Order of Protection for a specific time or effective permanently will be held before this Court on \_\_\_\_\_, 200\_\_, at the hour of \_\_\_\_\_.m, or as soon thereafter as the matter may be heard, in the courtroom at \_\_\_\_\_.

This Order of Protection shall continue in full force and effect until \_\_\_\_\_.

**Petitioner: You should immediately report any violation of this order to law enforcement. You also have the right to return to court to report any violation of this order.**

**Respondent: If you fail to appear for the hearing the judge will make a decision about the order of protection in your absence. This decision could affect your ability to own or possess firearms.**

**WARNING**

**Violation of this Order may be a criminal offense under applicable Federal or Tribal law and is a criminal offense under Mont. Code Ann. § 45-5-220 or § 45-5-626 and may carry penalties of up to \$10,000 in fines and up to a 5 year jail sentence.**

**This Order is issued by the Court and the Respondent is forbidden to do any act listed in the Order, even if invited by the Petitioner or another person. This Order may be amended only by further order of this Court or another court that assumes jurisdiction over this matter.**

The Sheriff is hereby directed to serve, without cost to Petitioner, a copy of this Order of Protection together with a copy of Petitioner's petition upon Respondent and to file a return of service with the clerk of this court. This service will be as soon as possible and before the date of the hearing. Upon receipt of proof of this Order, the clerk is hereby directed to mail or otherwise promptly deliver a copy of this Order, together with a copy of the proof of service, to the following law enforcement agencies:

\_\_\_\_\_  
\_\_\_\_\_

ISSUED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at the hour of \_\_\_\_\_ .m.

\_\_\_\_\_  
Judge/Justice

SHERIFF'S RETURN

I served this Order of Protection on the Respondent by delivering a copy to him/her at  
\_\_\_\_\_.m., on \_\_\_\_\_, 200\_\_\_\_\_.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_\_.

\_\_\_\_\_

*SAMPLE*